



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2018-0733; FRL-9996-11-Region 5]

**Air Plan Approval; Indiana; Redesignation of the Terre Haute
Area to Attainment of the 2010 Sulfur Dioxide Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Terre Haute, Indiana area from nonattainment to attainment for the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The area consists of Fayette and Harrison Townships in Vigo County, Indiana. EPA is also approving, as a revision to the Indiana State Implementation Plan (SIP), Indiana's maintenance plan for this area. EPA proposed to approve Indiana's redesignation request and maintenance plan on May 3, 2019.

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0733. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Samantha Panock, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8973, panock.samantha@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Public Comments
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. Background

On June 22, 2010 (75 FR 35520), EPA published a revised

primary SO₂ NAAQS of 75 parts per billion (ppb), which is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb. This NAAQS was codified at 40 CFR 50.4. On July 25, 2013 (78 FR 47191), EPA published its initial air quality designations for the SO₂ NAAQS based upon air quality monitoring data for calendar years 2009-2011. In that action, the Terre Haute area, comprised of Fayette and Harrison Townships, was designated nonattainment for the SO₂ NAAQS.

Indiana was required to submit an attainment demonstration that meets the requirements of sections 172(c) and 191-192 of the CAA and provide for attainment of the SO₂ NAAQS as expeditiously as practicable, but no later than October 4, 2018, which represents five years after the area was originally designated as nonattainment under the 2010 SO₂ NAAQS. Indiana submitted its attainment demonstration on October 2, 2015. EPA approved the Terre Haute attainment demonstration on March 22, 2019 (84 FR 10692).

Under CAA section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment. The relevant NAAQS must be attained in the area; the applicable implementation plan must be fully approved by EPA under section 110(k); the improvement in air quality must be determined to be due to permanent and

enforceable reductions in emissions; the State must meet all applicable requirements for the area under section 110 and part D; and EPA must fully approve a maintenance plan and contingency plan for the area under section 175A of the CAA. On May 3, 2019 (84 FR 19007), EPA proposed to find that these five criteria have been met for the Terre Haute nonattainment area, and thus, EPA proposed to redesignate Terre Haute from nonattainment to attainment of the 2010 SO₂ NAAQS.

II. Public Comments

EPA published its proposed approval of the redesignation request and maintenance plan on May 3, 2019 (84 FR 19007). The public comment period for this proposal closed on June 3, 2019. EPA received one supportive comment.

III. What Action is EPA Taking?

EPA is redesignating the Terre Haute nonattainment area from nonattainment to attainment of the 2010 SO₂ NAAQS. Indiana has demonstrated that the area is attaining the SO₂ standard, and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the nonattainment area. EPA is also approving, as a revision to the Indiana SIP, Indiana's maintenance plan, which is designed to ensure that the area will continue to maintain the SO₂ standard through the year 2030.

In accordance with 5 U.S.C. 553(d), EPA finds there is good

cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this SO₂ nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA

section 107(d) (3) (E) are actions that affect the status of the geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 20, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (e) is amended by adding an entry for "Terre Haute 2010 Sulfur Dioxide (SO₂) maintenance plan" after the entry "Terre Haute Hydrocarbon Control Strategy" to read as follows:

§ 52.1870 Identification of plan.

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(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
* * * * *	* * * * *	* * * * *	
Terre Haute 2010 Sulfur Dioxide (SO ₂) maintenance plan		[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *	* * * * *	* * * * *	

PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Section 81.315 is amended by revising the entry "Terre Haute, IN" in the table entitled "Indiana-2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§81.315 Indiana

* * * *

INDIANA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area ^{1 3}	Designation	
	Date ²	Type
* * * *		
Terre Haute, IN	[insert date of publication in the Federal Register]	Attainment
Vigo County		
Fayette Township, Harrison Township		
* * * *		

¹Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

²This date is April 9, 2018, unless otherwise noted.

³Porter County will be designated by December 31, 2020.

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[FR Doc. 2019-14359 Filed: 7/5/2019 8:45 am; Publication Date: 7/8/2019]